

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :11.08.2018
PRONOUNCED ON:14.08.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Tr.C.M.P.No.574 of 2018
and
C.M.P.No.13959 of 2018

V.C.Rajaraja Hariharan

....Petitioner

Vs

G.Divya

....Respondent

Prayer:Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., direct the petitioner to withdraw the H.M.O.P.No.31 of 2017 on the file of the Sub Court, Tiruvannamalai and transfer the same to Sub Court, Jayamkondam.

For Petitioner : Mr.R.Ramesh

O R D E R

The petitioner is the husband. Respondent is the wife.

2.On the basis of the materials placed on record, it is found that some earlier proceedings had been pending between the petitioner and the respondent and however, it is found that, considering the attitude of the respondent, the petitioner had laid the H.M.O.P.No.31 of 2017 on the file of the Sub Court, Tiruvannamalai for divorce. While so, though the petitioner would claim that both he and his wife/respondent had set up the family in Jayanagondam, it is found that all is not well between them and accordingly, it is seen that seeking divorce, the proceeding in H.M.O.P.NO.31 of 2017 has been preferred by the petitioner. In such view of the matter, when the petitioner has chosen to lay the divorce proceeding in the Subordinate Court, Thiruvannamalai and when the Subordinate Court, Tiruvannamalai has not been shown to be lacking in jurisdiction to entertain the abovesaid H.M.O.P.No.31 of 2017, the present Transfer Petition laid by the petitioner for seeking the transfer of the abovesaid H.M.O.P.No.31 of 2017 from the file of the Subordinate Court, Tiruvannamalai to the file of the Subordinate Court, Jayangondam, as such, cannot be countenanced. Further, when it is found that the petitioner has chosen the forum at Tiruvannamalai to institute the divorce proceeding against the

respondent and in such view of the matter, it is found that there is no acceptable reason projected by the petitioner as to why he had suo muto come forward with the present petition, for seeking the transfer of the said proceeding to the file of the Subordinate Court, Jayangondam.

3.The petitioner's counsel would contend that inasmuch as the respondent is also staying at Jayangondam, no prejudice or loss would be caused to the respondent if the divorce proceeding is transferred to the Subordinate Court, Jayangondam. However, it is only the petitioner who has moved this Court for seeking the transfer. In such view of the matter, it does not stand reason as to why the petitioner's counsel is pleading the cause of the respondent for effecting the transfer.

4. When the Court at Tiruvannamalai is not shown to be lacking in jurisdiction to entertain the divorce proceeding preferred by the petitioner, in such view of the matter, merely because, the petitioner as well as the respondent are residing at Jayangondam, that reason by alone would not entitle the petitioner to seek the transfer. Furthermore, when it is seen that the petitioner and the respondent are being assisted in the abovesaid divorce proceeding by able lawyers and the presence of the petitioner and the respondent is not required on all the hearing dates in respect of the abovesaid proceeding and their presence would be required only at the time when their evidence would be required to be tendered in support of their respective cases and on the other hearing dates, their respective counsel could easily deal with the matter as per the instructions received from them, in the light of the above position, I do not find any sufficient cause to effect the transfer as prayed for.

5.For the reasons aforesated, the Transfer Civil Miscellaneous Petition is found to be devoid on merits and accordingly dismissed. Consequently, connected miscellaneous petition, if any, is closed.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

mfa
To

1. The Subordinate Judge,
Sub Court,
Tiruvannamalai.

2.The Subordinate Judge,
Sub Court,
Jayamkondam.

+1 CC to Mr.R.Ramesh, Advocate sr 55906.

Tr.C.M.P.No.574 of 2018
and
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RJ (CO)
SP(04/09/2018)



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